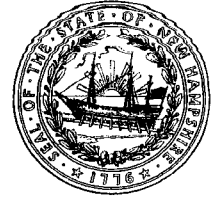




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

**LETTER OF DEFICIENCY
WET 06-099**

August 30, 2006

Esau Stanley
189 Rockingham Rd.
Derry, NH 03038

RE: NH DES Wetlands Bureau Compliance File No. 2006-01549 174 Rockingham Rd, Derry

Dear Mr. Stanley:

On August 9, 2006, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Derry Tax Map 03 as Lot 83-7 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A, NH Code of Admin. Rules Env-Wt 100-800 and Wetlands and Non-Site Specific Permit 2006-280 ("The Permit").

During the inspection the following deficiencies were documented:

1. The banks of the permitted crossing were not stable and were eroding into the stream;
2. Silt fence adjacent to this crossing was not installed correctly and therefore ineffective. This is a violation of condition #4 of the permit;
3. A large volume of fill was eroding off the property from the fill stock pile;
4. The slopes of the stock pile were not stabilized and the siltation fence was ineffective. This is a violation of condition #5 of the permit;
5. Sediment from the stock pile had eroded into a forested wetland and accumulated resulting in the filling of approximately of 8,000 square feet of wetland.

In response, you are requested to take the following actions:

1. **Immediately** retain qualified professionals to develop and implement remediation plans as specified below. Submit their name, address and phone number to DES by **September 8, 2006**
2. **BY SEPTEMBER 29, 2006**, submit an Erosion and Sediment Control Plan prepared by a certified erosion control specialist or other professional having experience with stormwater control ("the Plan") for approval to DES. Include in the Plan:
 - a. Provisions for permanent stabilization of the exposed stock piled fill and fill side slopes;
 - b. Provisions to eliminate sediment from leaving the Property;
 - c. A detailed description of the proposed construction sequence; and
 - d. An implementation schedule to carry out the work described in the Plan.
3. **BY SEPTEMBER 29, 2006** submit a wetland restoration plan prepared by a qualified wetland consultant which depicts existing conditions showing the topography of the property, and quantifies by field survey the current extent of disturbance in jurisdictional wetlands, and restoration of the impacted jurisdictional area as described below:
 - a. A plan with dimensions for the removal of the unpermitted fill in wetlands as quantified above and regrading the disturbed areas to original contours;
 - b. Equipment and methods of erosion control (silt fence, hay bales, etc.);
 - c. Construction sequence and timetable for accomplishing remediation no later than **October 15, 2006**;

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4. Execute the restoration plan immediately upon receipt of the restoration plan approval from the DES Wetlands Bureau.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Eben M. Lewis
Compliance Investigator
NH DES Wetlands Bureau
Pease Field Office
50 International Drive, Suite 200
Portsmouth, NH 03801

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Eben M. Lewis at 603.559.1515 or via email at elewis@des.state.nh.us.

Sincerely,

Frank D. Richardson, Ph.D.
Senior Wetlands Inspector
Southeast Region Supervisor
NH DES Wetlands Bureau

FDR/eml

CERTIFIED MAIL 7002 2410 0001 6279 1468

cc: Rene Pelletier, Asst. Director, Water Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Tracey Boisvert, DES Wetlands Compliance Supervisor
Robert Mackey, Code Enforcement Director, Derry
Derry Conservation Commission
Derry Board of Selectmen
USACOE